

DECISIONS PER CURIAM, FROM FEBRUARY 26,
1931, TO AND INCLUDING JUNE 1, 1931 *

No. —, original. EX PARTE VITALE. Submitted February 25, 1931. Decided March 2, 1931. Motion for leave to file petition for writ of habeas corpus and for leave to proceed *in forma pauperis* denied. *Mr. Frank J. Vitale, pro se.*

No. —, original. EX PARTE BENJAMIN. Submitted February 25, 1931. Decided March 2, 1931. Motion for leave to file petition for writ of habeas corpus and for leave to proceed *in forma pauperis* denied. *Mr. Jehudah Benjamin, pro se.*

No. —, original. EX PARTE DIAL. Submitted February 25, 1931. Decided March 2, 1931. Motion for leave to file petition for writ of mandamus denied. *Mr. Frank Dial, pro se.*

No. 217. HARGIS, COMMISSIONER OF LABOR AND INDUSTRIAL INSPECTION, *v.* BRADFORD. Appeal from the District Court of the United States for the Western District of Missouri. Return to rule to show cause submitted February 25, 1931. Decided March 2, 1931. *Per Curiam:* Upon consideration of the return of the appellant to the rule issued January 19, 1931, to show cause why the interlocutory decree of the specially constituted District Court of the United States for the Western District of Missouri, entered herein March 15, 1930, should not be vacated and the cause remanded to that court with directions to dismiss the case as moot,

* For decisions on applications for certiorari, see *post*, pp. 811, 818.

It is now here ordered that the interlocutory decree of the said specially constituted District Court entered in this cause March 15, 1930, be, and the same is hereby, vacated, and the cause is remanded to that court with directions to dismiss the case as moot, without costs to either party. *United States v. Hamburg American Co.*, 239 U. S. 466, 475; *Berry v. Davis*, 242 U. S. 468, 470; *Commercial Cable Co. v. Burleson*, 250 U. S. 360; *Heitmuller v. Stokes*, 256 U. S. 359; *Brownlow v. Schwartz*, 261 U. S. 216; *Norwegian Co. v. Tariff Commission*, 274 U. S. 106, 112; *United States v. Anchor Coal Co.*, 279 U. S. 812. *Messrs. Walter E. Sloat and Stratton Shartel* for appellant. No appearance for appellee. Reported below: 45 F. (2d) 223.

No. 316. *McKISSICK ET AL. v. TALBOT ET AL.* Appeal from the Supreme Court of Illinois. Argued February 27, 1931. Decided March 2, 1931. *Per Curiam*: The appeal herein is dismissed for the want of jurisdiction. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925, 43 Stat. 936, 937; *Wall v. Bankers Life Co.*, 282 U. S. 808; *Wright v. Minnesota Mutual Life Ins. Co.*, 193 U. S. 657; *Polk v. Mutual Reserve Fund Life Assn.*, 207 U. S. 310. *Mr. Leslie G. Pfefferle*, with whom *Messrs. Thomas W. Hoopes, Charles W. Lyon, and Frank C. Smith* were on the brief, for appellants. *Messrs. George G. Perrin, Nelson C. Pratt, Edward Sonnenschein, Herbert M. Lautmann, Henry S. Moser, and Isaac E. Ferguson* were on the brief for appellees. Reported below: 338 Ill. 441; 170 N. E. 735.

No. 535. *BURNET, COMMISSIONER OF INTERNAL REVENUE, v. NORTHERN TRUST Co., EXECUTOR.* Certiorari to the Circuit Court of Appeals for the Seventh Circuit. Argued February 27, 1931. Decided March 2, 1931.

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Per Curiam: The question in this case is that of the construction of § 402 (c) of the Revenue Act of 1921, c. 136, 42 Stat. 227, 278, a provision similar to that of § 402 (c) of the Revenue Act of 1918, c. 18, 40 Stat. 1057, 1097, which has already been construed by this Court, and, in this view, there being no question of the constitutional authority of the Congress to impose prospectively a tax with respect to transfers or trusts of the sort here involved, the judgment of the Circuit Court of Appeals for the Seventh Circuit is affirmed upon the authority of *May v. Heiner*, 281 U. S. 238. Mr. Walter E. Hope, Assistant Secretary of the Treasury, with whom Solicitor General Thacher and Messrs. Clarence M. Charest, General Counsel, and Prew Savoy, Special Attorney, Bureau of Internal Revenue, were on the brief, for petitioner. Mr. Edward H. Blanc argued the cause, and Messrs. Theodore Schmidt, John W. Davis, Russell L. Bradford, and Frederic Ullmann filed a brief, for respondent. Messrs. John E. Hughes and Raymond M. White, by special leave of Court, filed briefs as *amici curiae*. Mr. Seth T. Cole, by special leave of Court, filed a brief on behalf of the Tax Commission of the State of New York et al. as *amici curiae*. Reported below: 41 F. (2d) 732.

NO. 581. MORSMAN, ADMINISTRATOR, v. BURNET, COMMISSIONER OF INTERNAL REVENUE. Certiorari to the Circuit Court of Appeals for the Eighth Circuit. Argued February 27, 1931. Decided March 2, 1931. *Per Curiam:* The question in this case is that of the construction of § 302 (c) of the Revenue Act of 1924, c. 234, 43 Stat. 253, 304, a provision similar to that of § 402 (c) of the Revenue Act of 1918, c. 18, 40 Stat. 1057, 1097, which has already been construed by this Court, and, in this view, there being no question of the constitutional authority of the Congress to impose prospectively a tax with

respect to transfers or trusts of the sort here involved, the judgment of the Circuit Court of Appeals for the Eighth Circuit is reversed upon the authority of *May v. Heiner*, 281 U. S. 238. Mr. *Edward H. Blanc*, with whom Messrs. *Edgar M. Morsman, Jr.*, and *Russell L. Bradford* were on the brief, for petitioner. Solicitor General *Thacher*, and Messrs. *Walter E. Hope*, Assistant Secretary of the Treasury, *Claude R. Branch*, and *Clarence M. Charest*, General Counsel, *William T. Sabine, Jr.*, and *Prew Savoy*, Special Attorneys, Bureau of Internal Revenue, submitted for respondent. Reported below: 44 F. (2d) 902.

No. 542. *McCORMICK ET AL., EXECUTORS, v. BURNET, COMMISSIONER OF INTERNAL REVENUE*. Certiorari to the Circuit Court of Appeals for the Seventh Circuit. Argued February 27, 1931. Decided March 2, 1931. *Per Curiam*: The question in this case is that of the construction of § 402 (c) of the Revenue Act of 1921, c. 136, 42 Stat. 227, 278, a provision similar to that of § 402 (c) of the Revenue Act of 1918, c. 18, 40 Stat. 1057, 1097, which has already been construed by this Court, and, in this view, there being no question of the constitutional authority of the Congress to impose prospectively a tax with respect to transfers or trusts of the sort here involved, the judgment of the Circuit Court of Appeals for the Seventh Circuit is reversed upon the authority of *May v. Heiner*, 281 U. S. 238. Mr. *George T. Rogers*, with whom Messrs. *Horace Kent Tenney*, *Henry F. Tenney*, *Roger Sherman*, and *Robert N. Miller* were on the brief, for petitioners. Assistant Attorney General *Youngquist*, with whom Solicitor General *Thacher*, and Messrs. *Sewall Key* and *J. Louis Monarch*, Special Assistants to the Attorney General, *Erwin N. Griswold* and *Clarence M. Charest*, General Counsel, and *Prew Savoy*, Special Attorney, Bu-

reau of Internal Revenue, were on the brief, for respondent. Reported below: 43 F. (2d) 277.

NO. 64. DIRECTOR OF THE LANDS OF THE PHILIPPINE ISLANDS *v.* VILLA-ABRILLE ET AL. Certiorari to the Supreme Court of the Philippine Islands. Argued February 27, March 2, 1931. Decided March 2, 1931. *Per Curiam*: In view of the facts disclosed upon the oral argument of this case, the writ of certiorari is dismissed as improvidently granted. *Mr. William Cattron Rigby*, with whom *Messrs. Delfin Jaranilla*, Attorney General of the Philippine Islands, *W. A. Graham*, *A. R. Stallings*, *Grant T. Trent*, and *Edward A. Kreger* were on the brief, for petitioner. *Mr. H. Mason Welch*, with whom *Mr. Michael J. Lane* was on the brief, for respondents.

NO. 607. ALDRICH ET AL. *v.* CITY OF NEW YORK ET AL. Appeal from the Supreme Court of New York, New York County. Jurisdictional statement submitted March 2, 1931. Decided March 9, 1931. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Zucht v. King*, 260 U. S. 174, 176; *Sauer v. City of New York*, 206 U. S. 536, 548. *Mr. Anthony J. Ernest* for appellants. *Messrs. Arthur J. W. Hilly*, *Frank Nevius*, *Asa B. Kellogg*, and *Harvey D. Jacob* for appellees. Reported below: 253 N. Y. 558; 171 N. E. 782.

NO. 622. NASHVILLE, CHATTANOOGA & ST. LOUIS RY. CO. *v.* CARROLL COUNTY ET AL. Appeal from the Supreme Court of Tennessee. Jurisdictional statement submitted March 2, 1931. Decided March 9, 1931. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *New York ex rel. Hatch v. Reardon*, 204 U. S. 152, 160; *Hooker v. Burr*, 194 U. S. 415; *Ohio*

v. Akron Park District, 281 U. S. 74, 81. *Mr. Fitzgerald Hall* for appellant. *Mr. Joseph W. Byrns* for appellees. Reported below: 161 Tenn. 581; 33 S. W. (2d) 69.

No. 623. NASHVILLE, CHATTANOOGA & ST. LOUIS RY. Co. *v. BENTON COUNTY ET AL.* Appeal from the Supreme Court of Tennessee. Jurisdictional statement submitted March 2, 1931. Decided March 9, 1931. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *New York ex rel. Hatch v. Reardon*, 204 U. S. 152, 160; *Hooker v. Burr*, 194 U. S. 415; *Ohio v. Akron Park District*, 281 U. S. 74, 81. *Mr. Fitzgerald Hall* for appellant. *Mr. Joseph W. Byrns* for appellees. Reported below: 161 Tenn. 588; 33 S. W. (2d) 68.

No. 625. PHILADELPHIA ELECTRIC Co. *v. PHILADELPHIA.* Appeal from the Supreme Court of Pennsylvania. Jurisdictional statement submitted March 2, 1931. Decided March 9, 1931. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Missouri & Kansas Interurban Ry. Co. v. City of Olathe*, 222 U. S. 187, 190; *Cross Lake Shooting & Fishing Club v. Louisiana*, 224 U. S. 632. *Mr. Francis B. Bracken* for appellant. *Messrs. G. Coe Farrier, Ernest Lowengrund, and Augustus Trask Ashton* for appellee. Reported below: 152 Atl. 23.

No. 134. NORTH BEND STAGE LINE, INC., *v. DENNEY, DIRECTOR, ET AL.* Appeal from the Supreme Court of Washington. Argued March 4, 5, 1931. Decided March 9, 1931. *Per Curiam*: It appearing that the order of the Department of Public Works is supported by the evidence, the judgment of the Supreme Court of Washington is affirmed. *Mr. Thomas E. DeWolfe* argued

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the cause, and *Messrs. C. K. Poe, A. J. Falknor, Judson F. Falknor, and DeWolfe Emory* filed a brief, for appellant. *Mr. Hance H. Cleland*, with whom *Mr. Raymond W. Clifford* was on the brief, for the Washington Motor Coach Co., appellee. *Messrs. John H. Dunbar*, Attorney General of Washington, and *John C. Hurspool*, Assistant Attorney General, filed a brief for the Department of Public Works of Washington, appellee. Reported below: 153 Wash. 439; 279 Pac. 752.

No. 165. *WOODRUFF ET AL. v. LOS ANGELES*. Appeal from the District Court of Appeal, Second Appellate District, of California. Argued March 5, 6, 1931. Decided March 9, 1931. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Kennard v. Louisiana ex rel. Morgan*, 92 U. S. 480; *Thorington v. City Council*, 147 U. S. 490, 492, 493; *Tripp v. Santa Rosa Street R. Co.*, 144 U. S. 126. *Mr. J. A. Coleman*, with whom *Messrs. J. Edward Keating and Edward Fitzpatrick* were on the brief, for appellants. *Messrs. Erwin P. Werner*, City Attorney of Los Angeles, *Frederick von Schrader*, Assistant City Attorney, and *Loren A. Butts*, Deputy City Attorney, were on the brief, for appellee. Reported below: 102 Cal. App. 299; 294 Pac. 764.

No. 218. *NEKOOSA EDWARDS PAPER CO. v. RAILROAD COMMISSION OF WISCONSIN*. Appeal from the Supreme Court of Wisconsin. Argued March 11, 1931. Decided March 16, 1931. *Per Curiam*: In view of the findings of fact by the state court, supported by the evidence, the judgment is affirmed. *Portland Railway Light & Power Co. v. Railroad Commission of Oregon*, 229 U. S. 397, 412; *Miedreich v. Lauenstein*, 232 U. S. 236, 243, 244; *Northern Pacific Ry. Co. v. North Dakota*, 236 U. S. 585, 593. *Messrs. Ray B. Graves and Theodore W. Brazeau*, with

whom *Mr. B. R. Goggins* was on the brief, for appellant. *Messrs. John W. Reynolds*, Attorney General of Wisconsin, *Herbert H. Naujoks*, Assistant Attorney General, and *H. A. Minahan* were on the brief for appellee. Reported below: 201 Wis. 40, 228 N. W. 144; 229 N. W. 631.

No. 264. *GEORGE E. BREECE LUMBER CO. ET AL. v. ASPLUND, STATE COMPTROLLER*. Appeal from the Supreme Court of New Mexico. Submitted March 12, 1931. Decided March 16, 1931. *Per Curiam*: The judgment herein is affirmed. *Bowman v. Continental Oil Co.*, 256 U. S. 642, 648, 649. *Mr. Clarence M. Botts* was on the brief for appellants. *Messrs. E. K. Neumann*, Attorney General of New Mexico, *Frank H. Patton*, Assistant Attorney General, *E. R. Wright*, and *Donovan N. Hoover* were on the brief for appellee. Reported below: 34 N. M. 643; 287 Pac. 699.

No. 2, original. *NEW MEXICO v. TEXAS*. March 23, 1931.

DECREE.

On consideration of the report of Samuel S. Gannett, the Commissioner heretofore selected to run, locate and mark the boundary between the State of New Mexico and the State of Texas in the Valley of the Rio Grande River extending southwardly from the parallel of 32° north latitude to the parallel of 31° 47' on the international boundary between the United States of America and the United States of Mexico, which report was presented herein October 6, 1930; and no objection or exception to such report being presented, although the time therefor has expired;

It is now adjudged, ordered and decreed as follows:

1. The said report is in all things confirmed;

2. The boundary line delineated and set forth in the said report and on the accompanying maps is established and declared to be the true boundary between the States of New Mexico and Texas in the Valley of the Rio Grande River from the parallel of 32° north latitude to the parallel of 31° 47' on the international boundary between the United States of America and the United States of Mexico;

3. As it appears that the said Commissioner has completed his work conformably to the decree of this Court of April 9, 1928 (276 U. S. 558), the said Commissioner is hereby discharged.

4. The Clerk of this Court shall transmit to the Chief Magistrates of the States of New Mexico and Texas copies of this decree, duly authenticated under the seal of this Court, together with copies of the report of the Commissioner and of the accompanying maps;

5. The Clerk of this Court shall distribute and deliver to the Chief Magistrates of the States of New Mexico and Texas and to the Secretary of the Interior of the United States, all copies of the report of the Commissioner, with the accompanying maps, now in his hands, save that he shall retain three copies of each for such purposes as may arise in his office;

6. The costs in this cause shall be borne and paid in equal parts by the States of New Mexico and Texas. [See also, 275 U. S. 279; 276 U. S. 557, 558.]

No. 12, original. CONNECTICUT *v.* MASSACHUSETTS.
March 23, 1931.

DECREE.

This cause came on to be heard upon the pleadings, evidence, and the exceptions filed by the complainant to the Report of the Special Master, and was argued by counsel. The Court now being fully advised in the prem-

ises and for the purpose of carrying into effect the conclusions set forth in the opinion of this Court announced February 24, 1931,

It is now here ordered, adjudged and decreed as follows:

First that the Bill of Complaint herein be and the same hereby is, dismissed without prejudice to the right of the complainant to maintain a further suit against the defendant at any time in the future when it shall appear that substantial interests of the State of Connecticut are in fact being injured, or are about to be injured, through a material increase of the amount of the waters of the Ware River and of the Swift River diverted or to be diverted by, or under the authority of, the Commonwealth of Massachusetts, over and above the quantities authorized to be diverted by the provisions of Chapter 375 of the Acts of 1926 and by Chapter 321 of the Acts of 1927 of the General Court of the Commonwealth of Massachusetts, as said quantities have heretofore been limited by two certain findings of the Secretary of War of the United States, acting upon the recommendation of the Chief of Engineers of the United States Army, dated respectively March 14, 1928, and May 11, 1929, and more fully set out in Appendix B and Appendix C of the Reprint of the Answer of the Defendant herein, filed January 20, 1930, and of Record in this cause.

Second that each party shall pay its own costs, together with one-half of the expenses incurred by the Special Master, Charles W. Bunn, Esquire, of St Paul, Minnesota, and one-half of the amount fixed by the Court as the compensation of the Special Master. [See 282 U. S. 660.]

No. —, original. Ex PARTE EASTERN TRANSPORTATION Co. ET AL. Submitted March 16, 1931. Decided March 23, 1931. The motion for leave to file petition for writ

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of mandamus or prohibition is denied. *Mr. Charles R. Hickox* for petitioners.

No. 313. *WALKER ET AL. v. MENSI ET AL.* Appeal from the Supreme Court of Tennessee. Argued March 17, 1931. Decided March 23, 1931. *Per Curiam*: The appeal herein is dismissed for the want of jurisdiction. *Haseltine v. Central Bank of Springfield, Missouri (No. 1)*, 183 U. S. 130, 131; *Louisiana Navigation Co., Ltd., v. Oyster Commission*, 226 U. S. 99, 101, 102; *Northern Cedar Co. v. Gloyd*, 270 U. S. 625. *Mr. W. B. Rosenfield*, with whom *Mr. William P. Metcalf* was on the brief, for appellants. *Messrs. Edward B. Klewer, Hugh Stanton, L. D. Bejach, and Walter Chandler* were on the brief for appellees. Reported below: 160 Tenn. 468; 26 S. W. (2d) 132.

No. 8, original. *LOUISIANA v. MISSISSIPPI*. April 13, 1931.

DECREE.

This cause coming on for hearing by this Court upon the report of Thomas G. Haight, Special Master appointed by this Court, and herein filed, and upon the exceptions filed herein by the State of Mississippi, defendant, to said report of the Special Master, including the findings of fact, conclusions of law, and recommendations for a decree, and also upon all pleadings and exhibits thereto heretofore filed by both complainant and defendant, and also upon all depositions of witnesses and documentary and record evidence adduced, preferred, filed, and submitted both by complainant and defendant and upon all briefs of counsel both for complainant and defendant heretofore filed and submitted; and thereupon, on February 2nd, A. D. 1931, this Court having rendered

an opinion sustaining all the findings and recommendations of the Special Master, and directing that a decree should be entered as recommended by the Special Master; and the Court being fully advised in the premises:

It is thereupon considered, and now ordered, adjudged and decreed by this Court, as follows, to wit:—

1. That the bill of complaint has been sustained by sufficient and legal evidence, and that complainant, the State of Louisiana, is at law and in equity entitled to the relief prayed for.

2. That the report of Thomas G. Haight, Special Master, be and the same is hereby approved, sustained, and confirmed by this Court, and that the exceptions to said report filed by the State of Mississippi be and the same are hereby overruled.

3. That immediately prior to the avulsion of 1912-1913 the boundary line between the State of Louisiana and the State of Mississippi between latitude 32° 39' on the North and the division line between Issaquena and Warren Counties, Mississippi, (as extended westward), on the South, was at the place and line which was the thread of the main channel of the Mississippi River as it then ran; and that, the current having since ceased to flow in part of said channel as it existed prior to said avulsion, because of the new channel produced thereby, at this time the true boundary line between the State of Louisiana and the State of Mississippi, in that part and so much of the above area as was affected by the avulsion (between said North and South points), is the middle of the navigable channel of the Mississippi River as said channel was located at the time when the current ceased to flow therein because of the new channel produced by the avulsion of 1912-1913.

4. That Samuel S. Gannett, geodetic and astronomic engineer, of Washington, D. C., is hereby named and appointed as commissioner, with power, authority and in-

structions to run, locate, plat, and mark by suitable permanent boundary markers said boundary line, as above defined, by the use of the most accurate method now known to science and applicable in that locality, between said States between said North and South points, and to make and file in this Court as soon as practicable a full and accurate report of his findings, survey, and plat, and that the same be submitted to this Court for confirmation. And he shall file with his report the field notes of his survey, showing the method used by him in ascertaining and locating the line of the boundary, and a map showing the boundary line as run and marked by him; also 10 copies of his report and map. Said line when ascertained and located in accordance with this decree and approved and confirmed by the Court, is the boundary line between the State of Louisiana and the State of Mississippi between the North and South points hereinabove mentioned.

5. Before entering upon his work the commissioner shall take and subscribe his oath to perform his duties faithfully and impartially. He shall prosecute the work with diligence and dispatch, and shall have authority to employ such assistants as may be needed therein; and he shall include in his report a statement of the work done, the time employed, and the expenses incurred.

6. The work of the commissioner shall be subject in all its parts to the approval of the Court. One copy each of the commissioner's report and map shall be promptly transmitted by the clerk to the Governors of the two States; and exceptions or objections to the commissioner's report, if there be such, shall be presented to the Court, or, if it be not in session, filed with the clerk, within forty days after the report is filed.

7. That the sum to be allowed the commissioner hereby appointed, in payment of his services and reimbursement of his expenses, shall be fixed and allowed after the sub-

mission to this Court and confirmation by it of his report, findings, survey and plat.

8. If, for any reason, there occurs a vacancy in the commission when the Court is not in session, the same may be filled by the designation of a new commissioner by the Chief Justice.

[The remaining paragraphs deal with the compensation and expenses of the special master and the taxation of costs. See 282 U. S. 458.]

NO. 54. *CARBICE CORPORATION OF AMERICA v. AMERICAN PATENTS DEVELOPMENT CORP. ET AL.* Submitted March 16, 1931. Decided April 13, 1931. The petition for a rehearing is granted limited to the question of the validity of patent No. 1,595,426. See *ante*, pp. 27, 420.

NO. —, original. *EX PARTE SMITH ET AL.* Submitted March 23, 1931. Decided April 13, 1931. The motion for leave to file a petition for writ of mandamus is denied. *Mr. Eliot C. Lovet* for petitioners.

NO. 24, original. *EX PARTE MADDEN BROTHERS, INC.* Submitted April 13, 1931. Decided April 20, 1931. On consideration of the motion for leave to file petition for writ of mandamus, and of the petition for writ of mandamus herein, it is ordered that a rule issue to the Honorable Joseph W. Molyneaux, Judge of the District Court of the United States for the District of Minnesota, returnable on Monday, May 18 next, to show cause why a writ of mandamus should not issue to him in accordance with the prayer of the petition. *Mr. Abbot P. Mills* on behalf of *Mr. E. W. MacPherran* for petitioner. See *post*, p. 807.

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NO. 721. PHILLIPS, COLLECTOR, *v.* DIME TRUST & SAFE DEPOSIT CO., EXECUTOR. Certificate from the Circuit Court of Appeals for the Third Circuit. Submitted April 13, 1931. Decided April 20, 1931. *Per Curiam*: The joint motion to bring up the entire record and cause is granted. *Solicitor General Thacher, Assistant Attorney General Youngquist, and Messrs. Claude R. Branch, Sewall Key, J. Louis Monarch, Clarence M. Charest, and William T. Sabine, Jr., for Phillips. Mr. Charles C. Lark for the Dime Trust & Safe Deposit Co.*

NO. 837. ADAMS *v.* PARK, JUDGE. Appeal from the Supreme Court of Georgia. Submitted April 13, 1931. Decided April 20, 1931. *Per Curiam*: The motion for leave to proceed further herein *in forma pauperis* is denied. The appeal is dismissed for the want of a substantial federal question. *Malloy v. South Carolina*, 237 U. S. 180, 183, 185; *Wabash R. Co. v. Flannigan*, 192 U. S. 29; *Erie R. Co. v. Solomon*, 237 U. S. 427; *Zucht v. King*, 260 U. S. 174; *Sugarman v. United States*, 249 U. S. 182; *C. A. King & Co. v. Horton*, 276 U. S. 600; *Bank of Indianola v. Miller*, 276 U. S. 605; *Roe v. Kansas*, 278 U. S. 191. *Mr. Benjamin E. Pierce for appellant. Messrs. George M. Napier and T. R. Gress for appellee. Reported below: 156 S. E. 235.*

NO. 838. MEYERS *v.* WHITTLE, SHERIFF. Appeal from the Supreme Court of Georgia. Submitted April 13, 1931. Decided April 20, 1931. *Per Curiam*: The motion for leave to proceed further herein *in forma pauperis* is denied. The appeal is dismissed for the want of a substantial federal question. *Malloy v. South Carolina*, 237 U. S. 180, 183, 185; *Wabash R. Co. v. Flannigan*, 192 U. S. 29; *Erie R. Co. v. Solomon*, 237 U. S. 427; *Zucht v. King*, 260

U. S. 174; *Sugarman v. United States*, 249 U. S. 182; *C. A. King & Co. v. Horton*, 276 U. S. 600; *Bank of Indianola v. Miller*, 276 U. S. 605; *Roe v. Kansas*, 278 U. S. 191. *Mr. Benjamin E. Pierce* for appellant. *Messrs. George M. Napier and T. R. Gress* for appellee. Reported below: 156 S. E. 120.

NO. 306. *SPURRIER ET AL. v. MITCHELL IRRIGATION DISTRICT ET AL.* Appeal from the Supreme Court of Nebraska. Argued April 16, 17, 1931. Decided April 20, 1931. *Per Curiam*: The appeal herein is dismissed for the want of jurisdiction, § 237 (a) Judicial Code, as amended by the Act of February 13, 1925, 43 Stat. 936, 937. Treating the papers whereon the appeal was allowed as a petition for writ of certiorari, as required by § 237 (c) Judicial Code as amended, 43 Stat. 936, 938, certiorari is denied for want of a substantial federal question. *Wabash R. Co. v. Flannigan*, 192 U. S. 29; *Erie R. Co. v. Solomon*, 237 U. S. 427; *Zucht v. King*, 260 U. S. 174; *Sugarman v. United States*, 249 U. S. 182; *C. A. King & Co. v. Horton*, 276 U. S. 600; *Bank of Indianola v. Miller*, 276 U. S. 605; *Roe v. Kansas*, 278 U. S. 191. *Mr. J. M. Fitzgerald*, with whom *Mr. L. L. Raymond* was on the brief, for appellants. *Messrs. Thomas M. Morrow and William Morrow* were on the brief for Mitchell Irrigation District, appellee. *Messrs. J. G. Mothersead, Roscoe T. York, Floyd E. Wright, and Wm. H. Wright* were on the brief for Gering & Ft. Laramie Irrigation District, appellee. Reported below: 119 Neb. 401; 229 N. W. 273.

NO. 94. *RAMSEY & GATLIN CONSTRUCTION CO. ET AL. v. VINCENNES BRIDGE CO.* Certificate from the Circuit Court of Appeals for the Sixth Circuit. Argued April 15, 1931. Decided April 20, 1931. *Per Curiam*: As it ap-

pears from statements at the bar that the contract herein and the bond given pursuant thereto were made and the obligations thereof were to be performed within the State of Kentucky, and as the bond should be construed in accordance with the law of that state, and it appearing that, since the certification herein, the Court of Appeals of Kentucky has construed the bond in question and decided that one in the position of the appellee in the court below, as a subcontractor, was entitled to avail itself of the provision in the bond and maintain its action (*Aetna Casualty & Surety Co. v. Wheeler & Putnam Co.*, decided March 27, 1931, 239 Ky. 247) the Court is of opinion that there is no occasion for an answer by the Court to the question propounded in the certificate. *Illinois Surety Co. v. John Davis Co.*, 244 U. S. 376, 381; *Hartford Fire Ins. Co. v. Chicago, Milwaukee & St. Paul Ry. Co.*, 175 U. S. 91, 100; *Globe Indemnity Co. v. Southern Pacific Co.*, 30 F. (2d) 580, 583; *Federal Surety Co. v. City of Staunton*, 29 F. (2d) 9, 11; *Community Building Co. v. Maryland Casualty Co.*, 8 F. (2d) 678, 680; *Black Diamond S. S. Corp. v. Fidelity & Deposit Co.*, 33 F. (2d) 767, 768. The certificate is, accordingly, dismissed. *Mr. W. Braxton Dew*, with whom *Messrs. Henderson R. Dysard* and *John L. Smith* were on the brief, for Ramsey & Gatlin Construction Co. *Mr. Frank C. Malin*, with whom *Mr. Seymour Riddle* was on the brief, for Vincennes Bridge Co.

No. 1002. *FIELD ET AL. v. POWELL ET AL.* April 27, 1931. Appeal from the Supreme Court of Appeals of Virginia allowed, and Nellie Field Burwell, sole executrix, substituted as a party appellant in place of Samuel B. Field, deceased. *Mr. James E. Heath* for appellants. *Mr. Wm. M. Williams* for appellees.

No. 361. *NOACK ET AL. v. ZELLERBACH ET AL.* Appeal from the District Court of the United States for the Northern District of California. Submitted March 17, 1931. Decided April 27, 1931. *Per Curiam*: Decree affirmed. California Act of April 2, 1931, amending California Penal Code, § 634 (Stats. of California, 1931, c. 101); *Svenson v. Engelke*, 81 Cal. Dec. 237, 383; *New York ex rel. Silz v. Hesterberg*, 211 U. S. 31. *Messrs. Marshall B. Woodworth and Roger O'Donnell* were on the brief for appellants. *Messrs. Eugene D. Bennett and Ralph W. Scott* were on the brief for appellees.

No. 290. *WESTERN LAND & RECLAMATION CO. v. RECLAMATION BOARD OF CALIFORNIA ET AL.* Appeal from the Supreme Court of California. Submitted April 20, 1931. Decided April 27, 1931. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Guaranty Trust Co. v. New York & Queens County Ry. Co.*, 282 U. S. 803; *Ennis Water Works v. City of Ennis*, 233 U. S. 652, 658; *Wabash R. Co. v. Flannigan*, 192 U. S. 29; *Erie R. Co. v. Solomon*, 237 U. S. 427; *Zucht v. King*, 260 U. S. 174; *Sugarman v. United States*, 249 U. S. 182; *C. A. King & Co. v. Horton*, 276 U. S. 600; *Bank of Indianola v. Miller*, 276 U. S. 605; *Roe v. Kansas*, 278 U. S. 191. *Messrs. Eddy Knapp, W. H. Metson, and E. B. Mering* were on the brief for appellant. *Mr. Stephen W. Downey* was on the brief for appellees. Reported below: 208 Cal. 661; 284 Pac. 66.

No. 423. *SANCHEZ v. BORRAS.* Certiorari to the Circuit Court of Appeals for the First Circuit. Argued April 20, 1931. Decided April 27, 1931. *Per Curiam*: As it does not appear, upon an examination of the record, that the decision of the Circuit Court of Appeals, upon the

facts disclosed, is in conflict with the decisions of the Supreme Court of Porto Rico, the writ of certiorari granted herein is dismissed. *Mr. Nelson Gammans* for petitioner. *Mr. Henry G. Molina*, with whom *Messrs. Sidney P. Simpson* and *Archie O. Dawson* were on the brief, for respondent. Reported below: 41 F. (2d) 914.

No. 457. *DUQUESNE STEEL FOUNDRY CO. v. BURNET, COMMISSIONER OF INTERNAL REVENUE*. Certiorari to the Circuit Court of Appeals for the Third Circuit. Argued April 23, 1931. Decided April 27, 1931. *Per Curiam*: Judgment affirmed. *Williamsport Wire Rope Co. v. United States*, 277 U. S. 551. *Mr. William S. Moorhead*, with whom *Mr. William F. Knox* was on the brief, for petitioner. *Assistant Attorney General Rugg* argued the cause, and *Solicitor General Thacher*, *Assistant Attorney General Youngquist*, and *Messrs. Sewall Key* and *Andrew D. Sharpe*, Special Assistants to the Attorney General, *Paul D. Miller*, *Clarence M. Charest*, General Counsel, Bureau of Internal Revenue, and *Stanley Suydam*, Special Attorney, filed a brief for respondent. *Messrs William Cogger* and *John E. Hughes*, by special leave of Court, filed a brief on behalf of *Moody & Waters Co.*, as *amicus curiae*. Reported below: 41 F. (2d) 995.

No. 489. *ENAMELED METALS CO. v. BURNET, COMMISSIONER OF INTERNAL REVENUE*. Certiorari to the Circuit Court of Appeals for the Third Circuit. Argued April 23, 1931. Decided April 27, 1931. *Per Curiam*: Judgment affirmed. *Williamsport Wire Rope Co. v. United States*, 277 U. S. 551. *Messrs. S. Leo Ruslander* and *Clarence N. Goodwin*, with whom *Messrs. George R. Beneman* and *Samuel Kaufman* were on the brief, for petitioner. *Assistant Attorney General Rugg* argued the

cause and *Solicitor General Thacher*, *Assistant Attorney General Youngquist*, and *Messrs. Sewall Key* and *Andrew D. Sharpe*, Special Assistants to the Attorney General, *Paul D. Müller*, *Clarence M. Charest*, General Counsel, Bureau of Internal Revenue, and *James K. Polk*, Special Attorney, filed a brief for respondent. Reported below: 42 F. (2d) 213.

No. 748. *NORWOOD ET AL. V. BENNETT, ATTORNEY GENERAL, ET AL.* Appeal from the District Court of the United States for the Southern District of New York. Jurisdictional statement submitted April 20, 1931. Decided May 4, 1931. *Per Curiam*: Decree affirmed. *Lehon v. Atlanta*, 242 U. S. 53, 55, 56; *Gundling v. Chicago*, 177 U. S. 183, 186; *Brazee v. Michigan*, 241 U. S. 340; *Hall v. Geiger-Jones Co.*, 242 U. S. 539. *Mr. Sidney S. Bobbe* for appellants. No appearance for appellees. Reported below: 46 F. (2d) 312.

No. 698. *LIBERTY CENTRAL TRUST CO. ET AL., TRUSTEES, V. GREENBRIER COLLEGE ET AL.* Appeal from the District Court of the United States for the Southern District of West Virginia. Argued April 27, 1931. Decided May 4, 1931. *Per Curiam*: Decree affirmed. *Dohany v. Rogers*, 281 U. S. 362, 366; *Bragg v. Weaver*, 251 U. S. 57, 62; *Sweet v. Rechel*, 159 U. S. 380, 402; *Backus v. Fort Street Union Depot Co.*, 169 U. S. 557, 568. *Messrs. J. S. McWhorter*, *S. M. Austin*, and *W. Chapman Revercomb* submitted for appellants. *Mr. W. Elliott Nefflen*, Assistant Attorney General of West Virginia, with whom *Messrs. Howard B. Lee*, Attorney General, and *R. A. Blessing*, Assistant Attorney General, were on the brief, for appellees.

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NO. 624. *WOLFE ET AL. v. HURLEY, SECRETARY OF WAR, ET AL.* Appeal from the District Court of the United States for the Western District of Louisiana. Argued May 1, 1931. Decided May 4, 1931. *Per Curiam*: Decree affirmed. *Dohany v. Rogers*, 281 U. S. 362, 366; *Bragg v. Weaver*, 251 U. S. 57, 62; *Sweet v. Rechel*, 159 U. S. 380, 402; *Backus v. Fort Street Union Depot Co.*, 169 U. S. 557, 568. *Mr. Hugh Tullis*, with whom *Mr. Charles F. Borah* was on the brief, for appellants. *Solicitor General Thacher* and *Mr. W. Marvin Smith* were on the brief for Hurley et al., appellees. *Messrs. Jeff B. Snyder, James H. Gifford, Jr., Philip Watson, and F. G. Hudson, Jr.*, were on the brief for Board of Commissioners of the Fifth Louisiana Levee District et al., appellees. Reported below: 46 F. (2d) 515.

NO. —, original. *WASHINGTON v. OREGON.* Submitted May 4, 1931. Decided May 18, 1931. The motion for leave to file bill of complaint herein is granted. *Messrs. John H. Dunbar*, Attorney General of Washington, and *John C. Hurspool*, Assistant Attorney General, for complainant. No appearance for defendant.

NO. 14, original. *UNITED STATES v. UTAH.* May 18, 1931.

DECREE

This cause came on to be heard by this Court, upon the exceptions of the parties hereto, to the report of the Special Master.

Now, therefore, for the purpose of carrying into effect the conclusions of the Court, as stated in its opinion, dated April 13, 1931, it is ordered, adjudged, and decreed that:

1. The Bill of Complaint, in so far as it relates to the Green River, is dismissed. The Green River, from a point

where the river crosses the township line between townships 23 and 24 South, Range 17 East, Salt Lake Base and Meridian, to the confluence of the Grand (Colorado) River, is now and at all times on and after January 4, 1896, has been, a navigable river, and the title to the bed thereof vested in the State of Utah upon its admission into the Union on January 4, 1896, except so far as the United States of America may theretofore have made grants thereof. The United States of America is forever enjoined from asserting any estate, right, title, or interest in and to said river bed, or any part thereof, adverse to the State of Utah, or its grantees; and from in any manner disturbing or interfering with the possession, use, and enjoyment thereof by the State of Utah, or its grantees.

2. The Bill of Complaint, in so far as it relates to the Grand (Colorado) River, is dismissed. The Grand (Colorado) River, from a point located at the mouth of Castle Creek to the confluence of the Grand (Colorado) River with the Green River, is now and at all times on and after January 4, 1896, has been, a navigable stream, and title to the bed thereof vested in the State of Utah upon its admission into the Union on January 4, 1896, except so far as the United States of America may theretofore have made grants thereof. The United States of America is forever enjoined from asserting any estate, right, title, or interest in and to said river bed, or any part thereof, adverse to the State of Utah or its grantees, and from in any manner disturbing or interfering with the possession, use, and enjoyment thereof by the State of Utah or its grantees.

3. The Bill of Complaint, so far as it relates to the Colorado River, from the confluence of the Green River and the Grand (Colorado) River to Mile 212.15 above Lees Ferry, Arizona, and from Mile 176 above Lees Ferry, Arizona, to the Utah-Arizona Boundary Line, is dismissed.

Said stretches of said river and each of them are now and at all times on and after January 4, 1896, have been navigable, and title to the beds of said last-mentioned stretches of river and each of them vested in the State of Utah upon its admission into the Union on January 4, 1896, except so far as the United States of America may theretofore have made grants thereof. The United States of America is forever enjoined from asserting any estate, right, title, or interest in and to said beds of said last-mentioned stretches of river or in or to any portion of said last-mentioned beds, or either of them, adverse to the State of Utah or its grantees, and from in any manner disturbing or interfering with the possession, use, and enjoyment thereof by the State of Utah or its grantees.

4. The Colorado River from Mile 212.15 above Lees Ferry, Arizona, to Mile 176 above Lees Ferry, Arizona, is not a navigable river and the title to the bed of said last-mentioned stretch of river is vested in the United States of America, except as to lands heretofore granted, and the State of Utah is forever enjoined from asserting any estate, right, title, or interest in and to said bed of said last-mentioned stretch of river or in and to any part of said last-mentioned bed, adverse to the United States of America, or its grantees; and from in any manner disturbing or interfering with the possession, use, and enjoyment thereof, by the United States of America, or its grantees.

5. The San Juan River, from the mouth of Chinle Creek to the confluence of the San Juan and Colorado Rivers, is not a navigable river, and the title to the river bed is vested in the United States of America, except as to lands heretofore granted, and the State of Utah is forever enjoined from asserting any estate, right, title, or interest in and to said river bed, or any part thereof, adverse to the United States of America, or its grantees; and from

in any manner disturbing or interfering with the possession, use, and enjoyment thereof, by the United States of America, or its grantees.

6. The United States of America shall in nowise be prevented from taking any such action in relation to said rivers, or any of them, as may be necessary to protect and preserve the navigability of any navigable waters of the United States of America.

7. It is further adjudged and decreed by the Court that each party hereto pay its own costs and that each party hereto pay one-half of the expenses incurred by the Special Master, and also one-half of the amount to be fixed by the Court as the compensation of the Special Master. [See *ante*, p. 64.]

No. 632. *BRADY v. UNITED STATES ET AL.* Appeal from the District Court of the United States for the Northern District of West Virginia. Argued May 4, 1931. Decided May 18, 1931. *Per Curiam*: The decree of dismissal by the specially constituted District Court is affirmed. *Standard Oil Company (Indiana) v. United States*, *ante*, p. 235; *United States v. Louisville & Nashville R. Co.*, 235 U. S. 314, 320; *Interstate Commerce Comm. v. Delaware, Lackawanna & Western R. Co.*, 220 U. S. 235, 251; *Interstate Commerce Comm. v. Illinois Central R. Co.*, 215 U. S. 452, 470; *Baltimore & Ohio R. Co. v. United States ex rel. Pitcairn Coal Co.*, 215 U. S. 481, 494. *Mr. George T. Bell*, with whom *Mr. Samuel T. Spears* was on the brief, for appellant. *Solicitor General Thacher*, Assistant to the Attorney General *O'Brian*, *Mr. Charles H. Weston*, Special Assistant to the Attorney General, and *Messrs. Daniel W. Knowlton*, Chief Counsel, and *E. M. Reidy*, Assistant Chief Counsel, Interstate Commerce Commission, *Charles R. Webber* and *Eugene S. Williams*, were on the brief for the United States et al. Reported below: 43 F. (2d) 847.

No. 16, original. NEW JERSEY v. NEW YORK ET AL.
May 25, 1931.

DECREE

This cause came on to be heard by this Court upon the exceptions filed by the complainant and defendants to the report of the Special Master, and was argued by counsel for the States of New Jersey, New York, Pennsylvania and the City of New York.

On consideration whereof, it is now here ordered, adjudged, and decreed by this Court, as follows:

1. That the injunction prayed for by the State of New Jersey so far as it would restrain the State of New York or City of New York from diverting from the Delaware River or its tributaries to the New York City water supply the equivalent of 440 million gallons of water daily be, and the same is hereby, denied, but is granted to restrain the said State and City from diverting water in excess of that amount. The denial of the injunction as above is subject to the following conditions.

(a) Before any diversion shall be made an efficient plant for the treatment of sewage at Port Jervis, New York, shall be constructed and the sewage of Port Jervis entering the Delaware or Neversink Rivers shall be treated to such an extent as to effect a reduction of 85% in the organic impurities. And the effluent from such plant shall be treated with a chemical germicide, or otherwise, so that the *B. coli* originally present in the sewage shall be reduced by 90%.

Untreated industrial waste from plants in said town of Port Jervis shall not be allowed to enter the Delaware or Neversink Rivers, and the treatment of such industrial wastes shall be such as to render the effluent practically free from suspended matter and non-putrescent; and said

treatment of sewage and industrial waste shall be maintained so long as any diversion is made from the Delaware River or its tributaries.

(b) At any time the stage of the Delaware River falls below .50 c. s. m. at Port Jervis, New York, or Trenton, New Jersey, or both (.50 c. s. m. being equivalent to a flow of 1535 c. f. s. at Port Jervis and 3400 c. f. s. at Trenton), water shall be released from one or more of the impounding reservoirs of New York City in sufficient volume to restore the flow at Port Jervis and Trenton to .50 c. s. m., provided, however, that there is not required to be released at any time water in excess of 30% of the diversion area yield, and the diversion area yield having been ascertained to be 2.2 c. s. m., the maximum release required shall be 30% of that amount, or .66 cubic feet per second per square mile of the areas from which water is diverted.

In determining the quantity of water to be released so as to add to the flow of the Delaware River, the Neversink River shall be treated as if it flowed into the Delaware River above Port Jervis, and the number of second feet of water released from the impounding reservoir on the Neversink River shall be added to the number of second feet of water released from other reservoirs, so as to determine whether the quantity of water, required by this decree to be released, has been released.

(c) That the State of New Jersey and the Commonwealth of Pennsylvania, through accredited representatives, shall at all reasonable times have the right to inspect the dams, reservoirs and other works constructed by the City of New York and to inspect the diversion areas and the inflow, outflow and diverted flow of said areas, and to inspect the meters and other apparatus installed by the City of New York and to inspect all records pertaining to inflow, outflow and diverted flow.

2. The diversion herein allowed shall not constitute a prior appropriation and shall not give the State of New

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York and City of New York any superiority of right over the State of New Jersey and Commonwealth of Pennsylvania in the enjoyment and use of the Delaware River and its tributaries.

3. The prayer of the intervener, Commonwealth of Pennsylvania, for the present allocation to it of the equivalent of 750 million gallons of water daily from the Delaware River or its Pennsylvania tributaries is denied without prejudice.

4. The prayer of the Commonwealth of Pennsylvania for the appointment of a river master is denied without prejudice.

5. This decree is without prejudice to the United States and particularly is subject to the paramount authority of Congress in respect to navigation and navigable waters of the United States, and subject to the powers of the Secretary of War and Chief of Engineers of the United States Army in respect to navigation and navigable waters of the United States.

6. Any of the parties hereto, complainant, defendants or intervener, may apply at the foot of this decree for other or further action or relief and this Court retains jurisdiction of the suit for the purpose of any order or direction or modification of this decree, or any supplemental decree that it may deem at any time to be proper in relation to the subject matter in controversy.

7. The costs of the cause shall be divided and shall be paid by the parties in the following proportions: State of New Jersey 35 per cent, City of New York 35 per cent, State of New York 15 per cent, Commonwealth of Pennsylvania 15 per cent. [See *ante*, p. 336.]

No. 24, original. *EX PARTE* MADDEN BROS., INC. Return to rule submitted May 18, 1931. Decided May 25, 1931. *Per Curiam*: Upon consideration of the return of the Honorable Joseph W. Molyneaux to the rule, hereto-

fore issued to him, to show cause why a writ of mandamus should not issue directing and commanding him to vacate, annul, and set aside the order and decree of August 9, 1930, dismissing the bill of complaint in the case of *Madden Bros., Inc., v. Railroad & Warehouse Commission of Minnesota et al.*, and to call to his assistance two other judges and proceed in the said cause according to and in compliance with the provisions of § 266 of the Judicial Code in order to hear and determine the application for an interlocutory injunction in said cause;

It is now here ordered that the said rule be, and the same is hereby, made absolute. *Mr. E. W. MacPherran* for petitioner. *Messrs. Henry N. Benson, Charles E. Phillips, and John F. Bonner* for respondent.

No. 686. *LEACH v. CALIFORNIA*. Appeal from the District Court of Appeal, Second Appellate District, of California. Submitted May 18, 1931. Decided May 25, 1931. *Per Curiam*: The appeal herein is dismissed. *Stratton v. Stratton*, 239 U. S. 55; *Andrews v. Virginian Ry. Co.*, 248 U. S. 272, 275; *Matthews v. Huwe*, 269 U. S. 262, 265, 266; *American Railway Express Co. v. Levee*, 263 U. S. 19, 20. *Mr. Jesse I. Miller* for appellant. *Mr. U. S. Webb*, Attorney General of California, for appellee. *Messrs. Raymond Benjamin and Henry P. Goodwin*, by special leave of Court, filed a brief as *amici curiae*. Reported below: 290 Pac. 631.

No. 841. *SMITH ET AL. v. ILLINOIS BELL TELEPHONE Co.* Appeal from the District Court of the United States for the Northern District of Illinois. Jurisdictional statement submitted May 18, 1931. Decided May 25, 1931. *Per Curiam*: The appeal herein is dismissed. The order of the District Court merely reinstated the interlocutory injunction pursuant to the opinion of this Court. The

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parties should proceed with the trial of the cause upon the merits as this Court has directed. *Messrs. Oscar E. Carlstrom, Samuel A. Ettelson, George I. Haight, Benjamin F. Goldstein, Edmund D. Adcock, and Francis X. Busch* for appellants. *Messrs. Horace Kent Tenney, Charles M. Bracelen, William H. Thompson, Kenneth F. Burgess, R. A. Van Orsdel, and Leslie N. Jones* for appellee. [See 282 U. S. 133.]

No. 842. *NEW ORLEANS LAND CO. v. BOARD OF LEVEE COMMISSIONERS OF THE ORLEANS LEVEE DISTRICT.* Appeal from the Supreme Court of Louisiana. Jurisdictional statement submitted May 18, 1931. Decided May 25, 1931. *Per Curiam:* Judgment affirmed. *Wolfe v. Hurley*, ante, p. 801; *Sweet v. Rechel*, 159 U. S. 380; *Clark v. Nash*, 198 U. S. 361, 369; *Strickley v. Gold Boy Mining Co.*, 200 U. S. 527, 531; *Offield v. New York, New Haven & Hartford R. Co.*, 203 U. S. 372, 377. *Messrs. Arthur A. Moreno, Gustave Lemle, and J. D. Dresner* for appellant. *Mr. James Wilkinson* for appellee. Reported below: 132 So. 121.

No. 854. *LOFTUS ET AL. v. DEPARTMENT OF AGRICULTURE OF IOWA ET AL.* Appeal from the Supreme Court of Iowa. Jurisdictional statement submitted May 18, 1931. Decided May 25, 1931. *Per Curiam:* The appeal herein is dismissed for the want of a substantial federal question. *Adams v. Milwaukee*, 228 U. S. 572, 582, 583; *North American Cold Storage Co. v. Chicago*, 211 U. S. 306. *Mr. Edward J. McVann* for appellants. *Messrs. John Fletcher and Earl F. Wisdom* for appellees. Reported below: 232 N. W. 412.

No. 193. *MISSOURI PACIFIC R. Co. v. NORWOOD, ATTORNEY GENERAL, ET AL.* Appeal from the District Court of the United States for the Western District of Arkansas.

June 1, 1931. The judgment herein is modified so that the judgment clause will appear in the mandate as follows:

On consideration whereof, it is ordered, adjudged, and decreed by this Court that the decree of the said District Court in this cause be, and the same is hereby, affirmed with costs without prejudice to any application to the District Court to amend the pleadings or otherwise. [See *ante*, p. 249.]

No. 807. *MOYE v. NORTH CAROLINA ET AL.* Appeal from the Supreme Court of North Carolina. Jurisdictional statement submitted May 25, 1931. Decided June 1, 1931. *Per Curiam*: The appeal herein is dismissed for the want of a properly presented substantial federal question. *El Paso & South Western R. Co. v. Eichel & Weikel*, 226 U. S. 590; *Reinman v. Little Rock*, 237 U. S. 171; *Standard Oil Co. v. City of Marysville*, 279 U. S. 582. *Mr. Robert H. McNeill* for appellant. No appearance for appellees. Reported below: 200 N. C. 11; 156 S. E. 130.

No. 813. *SCHOOL DISTRICT No. 7, MUSKOGEE COUNTY, ET AL. v. HUNNICUT, COUNTY SUPERINTENDENT.* Appeal from the District Court of the United States for the Eastern District of Oklahoma. Jurisdictional statement submitted May 25, 1931. Decided June 1, 1931. *Per Curiam*: The decree herein is affirmed. *Ex parte Collins*, 277 U. S. 576; *Ex parte Public Bank*, 278 U. S. 101. *Messrs. J. J. Bruce, J. Bernard Smith, and O. B. Jefferson* for appellants. No appearance for appellee.

No. 839. *CLYNE v. OHIO.* Appeal from the Supreme Court of Ohio. Jurisdictional statement submitted May 25, 1931. Decided June 1, 1931. *Per Curiam*: The ap-

peal herein is dismissed. *Farson, Son & Co. v. Bird*, 248 U. S. 268. *Mr. Henry A. Williams* for appellant. *Mr. Ray T. Miller* for appellee. Reported below: 174 N. E. 767.

No. 869. *WESTERN & ATLANTIC R. Co. v. GRAY*. Appeal from the Supreme Court of Georgia. Jurisdictional statement submitted May 25, 1931. Decided June 1, 1931. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Wabash R. Co. v. Flannigan*, 192 U. S. 29; *Erie R. Co. v. Solomon*, 237 U. S. 427; *Zucht v. King*, 260 U. S. 174; *Sugarman v. United States*, 249 U. S. 182; *C. A. King & Co. v. Horton*, 276 U. S. 600; *Bank of Indianola v. Miller*, 276 U. S. 605; *Roe v. Kansas*, 278 U. S. 191. *Mr. Fitzgerald Hall* for appellant. No appearance for appellee. Reported below: 157 S. E. 482.

DECISIONS GRANTING CERTIORARI, FROM FEBRUARY 26, 1931, TO AND INCLUDING JUNE 1, 1931

No. 618. UNITED STATES EX REL. McLENNAN *v.* WILBUR, SECRETARY OF THE INTERIOR;

No. 676. UNITED STATES EX REL. SIMPSON *v.* WILBUR, SECRETARY OF THE INTERIOR ET AL.;

No. 704. UNITED STATES EX REL. BARTON *v.* WILBUR, SECRETARY OF THE INTERIOR; and

No. 743. UNITED STATES EX REL. PYRON *v.* WILBUR, SECRETARY OF THE INTERIOR, ET AL. March 2, 1931. Petitions for writs of certiorari to the Court of Appeals of the District of Columbia granted. *Messrs. Lewis Edwin Hoffman* and *Chester I. Long* for McLennan. *Messrs. Homer R. Hendricks* and *Donald V. Hunter* for Simpson. *Mr. James Conlon* for Barton. *Messrs. John*